

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- x  
THE CITY OF NEW YORK,

Plaintiff,

-against-

Civil Action No. 19-cv-3998

CIGARETTES UNLIMITED, L.C., JOHN A. LASH, III,  
ANITA LASH, STEPHEN DABNEY RILEY, SHANA L.  
BILLER, MARY RILEY, MARGARET L. CLARK,  
CANDICE S. FOX, MONIQUE PEARSON, JULIUS  
PETERS-BRANDON, JOANNA S. PETTIES, PAULA K.  
SLOAN, DERRICK L. WHITING, JESSICA  
WHITEHEAD, ELIZABETH R. WINDHAM, DEBRA A.  
ANTICO, JOSEPH N. ANTICO, THOMAS  
GUGLIELMO, MERYLE MCGOWAN, ROBERT A.  
SCHMIDT, RAZIK K. SHARKI, and John or Jane Doe 1-  
30,

Defendants.  
----- x

**DECLARATION OF ROBERT SCHMIDT**

Robert Schmidt declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. My name is Robert Schmidt. I reside in Staten Island, New York, and have done so for the past nineteen (19) years.
2. This declaration describes many of my interactions with the defendants Cigarettes Unlimited, L.C., ("Cigarettes Unlimited") and certain persons who were identified to me as owners or employees of Cigarettes Unlimited. This declaration sets forth my present recollections, but does not necessarily contain all of the information that I possess concerning Cigarettes Unlimited and its owners and employees.

3. I have been driving from New York City to Cigarettes Unlimited in Virginia to purchase Virginia-taxed cigarettes and bring them back to Staten Island for slightly less than ten (10) years, since approximately 2009. I first learned of Cigarettes Unlimited as a source of cigarettes when I was a customer of Joseph Antico, Sr. and Debra Antico, who had been supplying me with Virginia-stamped cigarettes since about 2007. In or about 2009, when Joseph Antico, Sr. was arrested a second time for purchasing cigarettes in Virginia, and could not risk continued purchases, I began at their request, to drive to Cigarettes Unlimited to pick-up cigarettes ordered by the Anticos. I also began to supplement the Anticos' purchases by purchasing cigarettes to re-sell in New York on my own. Eventually, by about the summer of 2015, I ceased making purchases for the Anticos and purchased solely for my own benefit.

4. The first time I went to Cigarettes Unlimited to pick-up for the Anticos, I spoke with "Jane," who was at that time the store manager at the Dale City location, located at 4315 Dale Boulevard (A), Woodbridge, VA 22193. After Jane left Cigarettes Unlimited, "Stephanie" was named manager of the Dale City store, and I interacted with her in purchasing cigarettes from Cigarettes Unlimited. After Stephanie died of an asthma attack, "Julius" was made the manager of Cigarettes Unlimited's Dale City location.

5. Jane knew that I was coming to Cigarettes Unlimited to pick-up the order for the Anticos and that I was from New York. When I discussed with Jane making my own purchases, she stated that if I purchased 100 cartons or more, I would receive a discount on the purchase price of \$1.00 per carton. At some later date, that incentive was increased, so that if I purchased 200 cartons or more, I would receive a \$2.00 per carton discount. In or around 2012 or 2013, the discount was further increased and I began to get even better prices, receiving a

discount of \$3.00 or sometimes \$3.50 per carton. I was always attempting to get a deeper discount from Cigarettes Unlimited.

6. Cigarettes Unlimited did not provide the lowest prices in the area, but the store was always able to obtain the brands and especially the volume that I needed. To order cigarettes, I would usually telephone Julius, or sometimes Paula, on a Wednesday, and arrange to pick-up the cigarettes on a Monday or Tuesday. I called from a telephone with a 917 area code. In the beginning, in 2009, I went to Cigarettes Unlimited perhaps once a month or every two or three weeks. By 2013 or 2014, I drove to Cigarettes Unlimited once a week, not twice, as I knew Debra Antico to do during this time period.

7. I used two different vehicles to pick-up orders at Cigarettes Unlimited, a white Ford Transit van, New York license HAY 8217, and a larger, gray Ford Transit van, New York license JHU2118. When I arrived at Cigarettes Unlimited to pick-up an order, I always parked behind the store, as did other buyers, except the Anticos, who parked in front of the store. On arriving, my order, along with others' orders, was already set out in lettered sections on the floor of the Cigarettes Unlimited back room. Buyers picking up cigarettes would be told, for example, that "your order is in letter A."

8. I nearly always paid Cigarettes Unlimited in cash, but occasionally paid by credit card. I purchased Newport, Marlboro and Parliament, the "big three" New York brands, and a few cartons of the less popular brands. Cigarettes Unlimited never gave me receipts, and or credit card receipts. My average purchase from Cigarettes Unlimited was never less than three hundred cartons per trip; my largest purchase, of 1204 cartons, was my final purchase, for which I was arrested on May, 22, 2019.

9. The Dale City store always pre-packaged my order in black plastic garbage bags, for which I would tip the employees \$20. If the store employees, most often Julius, helped me load my vehicle, I would give \$40 in tips. On one occasion, Candice Fox's children once helped me load my vehicle.

10. Julius knew that I was from New York, not only because of my vehicles, which Julius helped load, and which had New York plates, but because I told him I was from New York. I had conversations with Julius about such things as traffic or the weather in New York. I dealt with Paula on many occasions and had numerous conversations with her and her daughter Candice Fox on topics related to the fact that I lived in New York City, for example, conversations about the weather or traffic. Julius and Paula saw my New York-plated vehicles many times. In my opinion, everyone I dealt with at Cigarettes Unlimited knew that the cigarettes I purchased were being transported to New York.

11. Whenever I had questions for Julius, in particular over prices, Julius always had to ask John Lash for the answer. Julius introduced me to John Lash once, as "Rob," in what was the only face-to-face meeting I had with Lash. Lash appeared to know who I was, but we merely shook hands and greeted one another.

12. In my experience, anyone could make bulk purchases of cigarettes at Cigarettes Unlimited. Cigarettes Unlimited employees were eager to sell, no questions asked; they were happy to do so. I met other New York buyers at Cigarettes Unlimited while waiting to pick-up my orders. I met a woman I came to know as "Meryl" many times. I know that Debbie and Joseph Antico, Jr. know Meryl. Meryl and Debra Antico would have conversations mentioning events in New York in front of Cigarettes Unlimited employees. I know of other New York

individuals who purchase cigarettes directly from Cigarettes Unlimited, or indirectly, as customers of the Anticos, including Thomas Guglielmo, who I met at the Anticos.

13. After my arrest, Paula telephoned me and told me that on the trip to the store that ended in my arrest, I had left \$4,000 in cash in the store. Although I could not conceive how that could have happened, I did not object when Cigarettes Unlimited returned those funds to me.

14. After Debra and Joseph Antico were arrested, which followed my arrest, I called Cigarettes Unlimited and asked Julius, and perhaps Paula, whether the Anticos had been followed by the police from Cigarettes Unlimited to New York. Julius denied that any Cigarettes Unlimited buyer had been arrested in such a scenario before. I had also had an earlier conversation some years before with either Jane or Stephanie, who stated that there had never been a customer that had been stopped by the police after leaving the store.

15. I would less frequently place orders at Cigarettes Unlimited's Fredericksburg store, placing the orders with an individual, a woman, whose name I do not recall but who had been arrested for theft at the workplace (Cigarettes Unlimited in Fredericksburg). I preferred the Dale City store however, because the only parking available at the Fredericksburg store was in front of the store. The Dale City store would provide me with black garbage bags; at the Fredericksburg store, I had to bring my own.

16. A carton of Virginia-stamped cigarettes can be re-sold in New York for a \$10-12 per carton profit for sale made in "retail" quantities, which I consider to be less than 30 cartons. I consider re-sales of more than 30 cartons to be "wholesale" sales, for which the profit per carton is less, but the revenues are greater because of the larger volume per sale; moreover, less effort is required to make a wholesale, as opposed to retail sales.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 28, 2019  
Staten Island, New York

A handwritten signature in black ink, appearing to read "Robert Schmidt", written over a horizontal line.

ROBERT SCHMIDT